REMARKS

This is a full and timely response to the non-final Office Action mailed November 15, 2006. Through this response, claims 1-9, 11, 12, 14, and 16-18 have been amended, claims 25-30 have been added, and claims 19-24 have been canceled without prejudice, waiver, or disclaimer. Reconsideration and allowance of the application and pending claims 1-18 and 25-30 are respectfully requested.

I.   Claim Rejections - 35 U.S.C. § 103(a)

        A.   Statement of the Rejection

        Claims 1-8 and 19-22 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *LaJoie et al.* ("*LaJoie*," U.S. Pat. No. 5,850,218) in view of *Hendricks et al.* ("*Hendricks*," U.S. Pat. No. 5,990,927). Claims 9-18 and 23-24 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Hendricks* in view of *LaJoie*. Applicants respectfully submit that the above described amendments to the claims render the rejections moot. Further, Applicants respectfully submit that the pending claims are allowable over the art of record for at least the reasons set forth below.

        B.   Discussion of the Rejection

        The U.S. Patent and Trademark Office ("USPTO") has the burden under section 103 to establish a *prima facie* case of obviousness according to the factual inquiries expressed in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). The four factual inquires, also expressed in MPEP 2100-116, are as follows:

        (A)   Determining the scope and contents of the prior art;

(B)   Ascertaining the differences between the prior art and the claims in issue;

(C)   Resolving the level of ordinary skill in the pertinent art; and

(D)   Evaluating evidence of secondary considerations.

Applicants respectfully submit that a *prima facie* case of obviousness is not established using the art of record, and hence respectfully request that the rejections be withdrawn for at least the following reasons.

Independent Claim 1

Independent claim 1 recites (with emphasis added):

1.   A method for providing a television menu comprising:
        storing, in a memory associated with a settop terminal (STT a channel data
                structure comprising a first channel entry and a second channel
                entry, the first channel entry comprising a first channel number and
                a first pointer to a first service identifier, the second channel entry
                comprising a second channel number and a second pointer to a
                second service identifier, the first and second service identifiers
                corresponding to first and second services provided in a cable
                television system;
        ***storing, in the memory associated with the STT, a service data structure
                comprising a first service entry and a second service entry, the
                first service entry comprising the first service identifier, a first
                identifier of a first executable software application associated
                with the first service identifier, and a first menu option, the
                second service entry comprising the second service identifier, a
                second identifier of a second executable software application
                associated with the second service identifier, and a second menu
                option, the first and second menu options contextually related to
                the first and second services identifiers, respectively;***
        selecting one of the first channel number or the second channel number via the
                STT;
        receiving an input signal from a user input to provide a television menu;
        responsive to the input signal, automatically determining whether to present the
                first menu option or the second menu option to the user based on whether
                the first or second service identifier is linked by the respective first or
                second pointer associated with the selected television channel; and
        displaying either the first or second menu option depending on the determination.

As explained above, Applicants respectfully submit that the amendments to independent claim 1 have rendered the rejection moot. Additionally, Applicants respectfully submit that *LaJoie* in view of *Hendricks* fails to disclose, teach, or suggest at least the above-emphasized claim features pertaining to the **service data structure**. As acknowledged by the Office Action on page 3, *"LaJoie does not explicitly disclose storing the service identifiers associated with respective definitional information regarding a plurality of television menus in which each of the television menus includes at least one television menu option, and providing one of television menus of the plurality of television menus to the user that includes the at least one television menu option in response to an input signal from a user."* Applicants respectfully agree. However Applicants respectfully disagree that *Hendricks* remedies the above deficiency of *LaJoie*. Page 4 of the Office Action states that:

> *"Hendricks discloses <u>storing menu templates</u> in a memory of a set top terminal. Once the <u>menu templates have been stored in the memory</u>, the set top terminal can generate specific menu on the television screen that correspond to the inputs the subscriber selects. It is noted that the system of Hendricks provides a different types of menus to subscriber. The set top terminal is able to determine the proper menu location for each program and the proper time and channel to activate for the subscriber after a menu selection. Furthermore, each menu comprises at least one television menu option."* (Emphasis Added)
> [*sic*]

Hendricks states that:

> *"the set top terminal 220 is able to <u>store menu templates for creating menus that are displayed on a subscriber's television by using an array of menu templates. Before a menu can be constructed, menu templates must be created and sent to the set top terminal 220 for storage.</u> A microprocessor uses the control signals received from the operations center 202 or cable headend 208 to generate the menu templates for storage. Each menu template may be stored in volatile memory in the set top terminal 220. When the set top terminal receives template information it demultiplexes the program control signals received from the cable headend 208 into four primary parts: video, graphics, program logic and text. <u>**Each menu template represents a different portion of a whole menu, such as a**</u>*

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*menu background, television logo, cursor highlight overlay, or other
miscellaneous components, needed to build a menu. The menu templates may
be deleted or altered using control signals received from the operation center 202
or cable headend 208.*

*Once the menu templates have been stored in memory, the set top terminal
220 can generate the appropriate menus. In the preferred embodiment, the basic
menu format information is stored in memory located within the set top terminal
220 so that the microprocessor may locally access the information from the set
top terminal instead of from an incoming signal. The microprocessor next
generates the menu information stored in memory. The set top terminal 220 then
displays specific menus on the subscriber's television screen that correspond to
the inputs the subscriber selects." Hendricks:* col. 10, line 60 to col. 11, lines 23.
(Emphasis Added)

Applicants respectfully submit that *Hendricks* appears arguendo to disclose the storage of menu

templates that are combined in order to generate various menus, which is not the same as the

storage of a "*service entry comprising... [a] service identifier, ...[an] identifier of a...*

executable software application associated with the... service identifier, and a ... menu option,

[where] the... menu options [are] contextually related to the ... [service identifier]." As

disclosed in *Hendricks* above, a "menu template" includes such things as menu backgrounds,

television logos, cursor highlight overlays, and other objects that simply could not be construed

as the *service data structure* described in claim 1. For at least these reasons, Applicants

respectfully submit that independent claim 1 is allowable over the combination of *LaJoie* and

Hendricks.

Because independent claim 1 is allowable over *LaJoie* and *Hendricks*, dependent claims 2-4

and 25 and 26 are allowable as a matter of law for at least the reason that the dependent claims 2-4

and 25 and 26 contain all elements of their respective base claim. See, *e.g., In re Fine*, 837 F.2d

1071 (Fed. Cir. 1988).

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Independent Claim 5

Independent claim 5 recites (with emphasis added):

5.   A programmable television services client device that provides television control services, said client device comprising:

a device configured to select one of a plurality of television channels;

memory with logic stored therein, the memory further configured to store:

a channel data structure comprising a first channel entry and a second channel entry, the first channel entry comprising a first channel number and a first pointer to a first service identifier, the second channel entry comprising a second channel number and a second pointer to a second service identifier, the first and second service identifiers corresponding to first and second services provided in a cable television system; and

a service data structure comprising a first service entry and a second service entry, the first service entry comprising the first service identifier, a first identifier of a first executable software application associated with the first service identifier, and a first menu option, the second service entry comprising the second service identifier, a second identifier of a second executable software application associated with the second service identifier, and a second menu option, the first and second menu options contextually related to the first and second services identifiers, respectively; and

a processor coupled to said memory and configured with the logic to receive an input signal from a user input, and responsive to the input signal, automatically determine whether to present the first menu option or the second menu option to the user based on whether the first or second service identifier is linked by the respective first or second pointer associated with the selected television channel, and display either the first or second menu option depending on the determination.

As explained above, Applicants respectfully submit that the amendments to independent claim 5 have rendered the rejection moot. Additionally, for similar reasons presented above for claim 1, Applicants respectfully submit that *LaJoie* in view of *Hendricks* fails to disclose, teach, or suggest at least the above-emphasized claim features pertaining to the **service data structure**. Accordingly, Applicants respectfully submit that independent claim 5 is allowable over the combination of *LaJoie* and *Hendricks*.

Because independent claim 5 is allowable over *LaJoie* and *Hendricks*, dependent claims 6-8 and 27 and 28 are allowable as a matter of law.

Independent Claim 9

Independent claim 9 recites (with emphasis added):

9.   A programmable television services client device that provides television control services, said client device comprising:

a device configured to select one of a plurality of television services;

memory with logic stored therein, the memory configured to store:

a service data structure comprising a first service entry and a second service entry, the first service entry comprising the first application identifier, a first identifier of a first executable software application associated with the first application identifier, and a first menu option, the second service entry comprising the second application identifier, a second identifier of a second executable software application associated with the second application identifier, and a second menu option, the first and second menu options contextually related to the first and second applications identifiers, respectively; and

a processor coupled to said memory and configured with the logic to receive an input signal from a user input corresponding to a menu command, and responsive to receiving the input signal:

identify a television service that is currently being provided to the user, the television service being provided to the user by the first or second executable software application identified by the respective first or second application identifier;

automatically determine whether to present the first menu option or the second menu option based on the selected channel and based on associating entries in the channel data structure and the service data structure with the selected channel; and

display either the first or second menu option depending on the determination, wherein the first menu option and the second menu option are provided for each and every respective television service of the plurality of television services in response to selection thereof.

As explained above, Applicants respectfully submit that the amendments to independent claim 9 have rendered the rejection moot. Additionally, Applicants respectfully submit that *Hendricks* in view of *LaJoie* fails to disclose, teach, or suggest at least the above-emphasized claim features pertaining to the **service data structure**. For instance, the following assertions are made on pages 7 - 8 of the Office Action:

"Regarding claim 9, Hendricks teaches a programmable television services client devices (220 – figure 4) that provides television control services, said client

*device comprising:... memory (620 – figure 4) configured to store definitional
information (menu templates) regarding a plurality of television menus in which
each television menu includes at least one television menu... See col. 10, line 60
to col. 11, line 23; figures 16a and 21)"* (Emphasis Added)

Hendricks states that:

> *"the set top terminal 220 is able to <u>store menu templates for creating menus that
> are displayed on a subscriber's television by using an array of menu templates.
> Before a menu can be constructed, menu templates must be created and sent to
> the set top terminal 220 for storage.</u> A microprocessor uses the control signals
> received from the operations center 202 or cable headend 208 to generate the
> menu templates for storage. Each menu template may be stored in volatile
> memory in the set top terminal 220. When the set top terminal receives template
> information it demultiplexes the program control signals received from the cable
> headend 208 into four primary parts: video, graphics, program logic and text.
> **Each menu template represents a different portion of a whole menu, such as a
> menu background, television logo, cursor highlight overlay, or other
> miscellaneous components, needed to build a menu.** The menu templates may
> be deleted or altered using control signals received from the operation center 202
> or cable headend 208.*
>   *Once the <u>menu templates have been stored in memory, the set top terminal
> 220 can generate the appropriate menus.</u> In the preferred embodiment, the basic
> menu format information is stored in memory located within the set top terminal
> 220 so that the microprocessor may locally access the information from the set
> top terminal instead of from an incoming signal. The microprocessor next
> generates the menu information stored in memory. The set top terminal 220 then
> displays specific menus on the subscriber's television screen that correspond to
> the inputs the subscriber selects."* *Hendricks*: col. 10, line 60 to col. 11, lines 23.
> (Emphasis Added)

Applicants respectfully submit that *Hendricks* appears arguendo to disclose the storage of

menu templates that are combined in order to generate various menus, which is not the same as

the storage of a "***service entry... comprising... [an] application identifier, [an]... identifier of***

a... executable software application associated with the... application identifier, and a...

menu option, ... the ... menu options contextually related to the ... [application identifier]."

For at least these reasons, Applicants submit that independent claim 9 is allowable over the

combination of *Hendricks* and *LaJoie*.

Additionally, Applicants respectfully submit that independent claim 9 is allowable over

the combination of *Hendricks* and *LaJoie* for at least the additional and independent reason that

the combination of *Hendricks* and *LaJoie* fails to disclose, teach or suggest at least the feature of

a processor that, "*responsive to the user input*" is configured to "***identify a television service that***

is currently being provided to the user, the television service being provided to the user by the

first or second executable software application identified by the respective first or second

application identifier; *and automatically determine whether to present the first menu option or*

the second menu option based on the selected channel" as recited in claim 9. Both the *Hendricks*

and *LaJoie* disclosures appear to be silent with respect to any such teaching or suggestion.

For at least these reasons, Applicants submit that independent claim 9 is allowable over

the combination of *Hendricks* and *LaJoie*.

Because independent claim 9 is allowable over *Hendricks* and *LaJoie*, dependent claims 10-

13 and 29 and 30 are allowable as a matter of law.

Independent Claim 14

Independent claim 14 recites (with emphasis added):

> 14.   A method for providing a television menu comprising:
> receiving a plurality of television services via a settop terminal (STT);
> ***storing, in a memory associated with the STT, a service data structure***
> ***comprising a first service entry and a second service entry, the first service***
> ***entry comprising the first application identifier, a first identifier of an***
> ***executable software application associated with the first application identifier,***
> ***and a first menu option, the second service entry comprising the second***
> ***application identifier, a second identifier of an executable software application***
> ***associated with the second application identifier, and a second menu option, the***
> ***first and second menu options contextually related to the first and second***
> ***applications identifiers, respectively;***
> selecting one of the plurality of television services via the STT;
> receiving an input signal from a user input corresponding to a menu
> command to provide a television menu based on the selected television service;
> responsive to receiving the input signal, ***identifying a television service***
> ***that is currently being provided to the user via the STT, the television service***

being provided to a user by the executable software application identified by the respective first or second application identifier; and

       providing a television menu corresponding to either the first or second menu option that is selected based on the identified television service that is currently being provided to the user via the STT, wherein the first menu option and the second menu option are provided for each and every respective television service of the plurality of television services in response to selection thereof.

As explained above, Applicants respectfully submit that the amendments to independent claim 14 have rendered the rejection moot. Additionally, for similar reasons presented above for claim 9, Applicants respectfully submit that *Hendricks* in view of *LaJoie* fails to disclose, teach, or suggest at least the above-emphasized claim features pertaining to the ***service data structure*** or the identifying features of claim 14. Accordingly, Applicants respectfully submit that independent claim 14 is allowable over the combination of *Hendricks* and *LaJoie*.

Because independent claim 14 is allowable over *Hendricks* in view of *LaJoie*, dependent claims 15-18 are allowable as a matter of law.

II.   Canceled Claims

As identified above, claims 19-24 have been canceled from the application through this response without prejudice, waiver, or disclaimer. Applicants reserve the right to present these canceled claims, or variants thereof, in continuing applications to be filed subsequently.

III.   New Claims

As identified above, claims 25-30 have been added into the application through this response. Applicants respectfully submit that these new claims, at least through incorporation of the respective base claim features, describe embodiments of an invention novel and unobvious in view of the prior art of record as set forth above, and, therefore, respectfully request that these claims be

held to be allowable. It is believed that the foregoing amendments add no new matter to the

present application.

CONCLUSION

Applicants respectfully submit that Applicants' pending claims are in condition for allowance. Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, and similarly interpreted statements, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

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